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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,238	03/24/2004	Rafael A. Alvarado	Bet.PA.002	5011

7590 01/04/2007
G. Alan Witte
Frost Bank Building
Suite 920
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Houston, TX 77401

EXAMINER

BOLLINGER, DAVID H

ART UNIT	PAPER NUMBER
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3653

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/808,238

Applicant(s)

ALVARADO, RAFAEL A.

Examiner

David H. Bollinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 15 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 2 of claims 3, 15 and 27, the recitation "the bottom of the side" lacks proper antecedent basis since the side has not been clearly recited as having a bottom thereby making the location of the bottom unclear.

Accordingly, the recitation that the slider is at the bottom of the side raises confusion as to the location of the opening in the bag because the "side" location and/or orientation has not been clearly established in order to place the slider in the position as recited in these claims.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 6, 7, 10, 13, 14, 18, 19, 22, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Dobreski.

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Note the pack of plastic bags of Dobreski includes a lower bag portion which has a bottom (attached to the binder along line 38) and a side portion (what could be the top side of the bag in normal use) having an opening with zipper closure with a slider 32. Note also the bottom 21 of the lower bag portion is located opposite the serration line 38 (see Figure 2).

5. Claims 1, 2, 6, 7, 10, 13, 14, 18, 19, 22, 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Sill.

Note the pack of plastic bags of Sill includes a lower bag portion which has a bottom (attached to the binder along line 54) and a side portion (what could be considered the top side of the bag in normal use) having an opening with zipper closure with a slider 44. Note also the bottom 28 of the lower bag portion is located opposite the serration line 54 (see Figure 2).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 through 5, 15 through 17, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sill.

The location of the opening on the left or right side of the lower bag portion with the slider at the bottom (lower end of the pack when suspended) when the seal is open is considered obvious to one of ordinary skill in the art since Sill teaches

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that the location of the various components may be place as desired. See column 3 lines 34-41.

8. Claims 8, 9, 12, 20, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobreski in view of Sill et al.

Dobreski as interpreted above in paragraph 4 teaches everything except a header adhered to the binder.

Sill et al teaches providing a header 24 folded of the binder of a pack of plastic bags which Sill et al teaches is preferably made of cardboard.

In view of the teachings of Sill et al, it would have been obvious to one of ordinary skill in the art to provide a header adhered to the binder of the pack of plastic bags of Dobreski. Employing the teachings of Sill et al in the environment of the Dobreski arrangement holes would be formed in the header to correspond to the support holes in the binder of Dobreski.

9. Claims 8, 9, 12, 20, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sill in view of Sill et al.

Sill as interpreted above in paragraph 5 teaches everything except a header adhered to the binder.

Sill et al teaches providing a header 24 folded of the binder of a pack of plastic bags which Sill et al teaches is preferably made of cardboard.

In view of the teachings of Sill et al, it would have been obvious to one of ordinary skill in the art to provide a header adhered to the binder of the pack of plastic bags of Sill. Employing the teachings of Sill et al in the environment of the

Sill arrangement holes would be formed in the header to correspond to the support holes in the binder of Sill.

10. Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobreski in view of Crunkleton et al.

Dobreski as interpreted above in paragraph 4 teaches everything except the specific runner arrangement recited in claims 11 and 23.

Crunkleton et al teaches the claimed runner arrangement for the zipper seal of a plastic bag (see Figure 2).

In view of Crunkleton et al, it would have been obvious to one of ordinary skill in the art to substitute one known zipper seal arrangement for another to replace the zipper of Dobreski's bags.

11. Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sill in view of Crunkleton et al.

Sill as interpreted above in paragraph 5 teaches everything except the specific runner arrangement recited in claims 11 and 23.

Crunkleton et al teaches the claimed runner arrangement for the zipper seal of a plastic bag (see Figure 2).

In view of Crunkleton et al, it would have been obvious to one of ordinary skill in the art to substitute one known zipper seal arrangement for another to replace the zipper of Sill's bags.

12. Applicant's arguments filed 16 October 2006 have been fully considered but they are not persuasive. Applicant's arguments relative to the bottom of lower bag portion being opposite the serration have been addressed in the above rejections.

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H. Bollinger whose telephone number is 571-272-6935. The examiner can normally be reached on Tuesday through Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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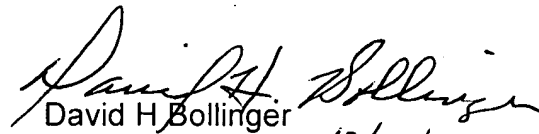
published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).


David H. Bollinger
Primary Examiner 12/28/06
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